IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.1473 OF 2007

The Punjab & Maharashtra
Co-operative Bank Ltd. .. Petitioner.
Vs.
Mr.Joginder Singh & Ors. .. Respondents.

Mr.M.N.Bhadrashetye for the petitioner.
Mr.S.R.Saudagar for respondent no.1.
Mr.Shekhar Ingale AGP for respondent nos.3 and 4.

CORAM : D.B.BHOSALE, J.
DATED : 17TH SEPTEMBER, 2007.

P.C.:

. Heard learned counsel for the parties.

2. The petitioner-bank has impugned an order dated 11.6.2007 passed by the Divisonal Joint Registrar, Co-operative Societies, Mumbai Division, Mumbai disposing of the revision application filed by the petitioner challenging the recovery certificate dated 28.3.2001 issued by the Assistant Registrar, Co-operative Societies, Mumbai under section 101 of the Maharashtra Co-operative Societies Act, 1960. It appears from the impugned order that the Divisional Joint Registrar has observed that admittedly the recovery certificate is issued Exparte and that the respondent-bank did not produce evidence to show that the writ of summons was duly served on the applicant or his sureties. The Divisional Joint Registrar has

also observed that even attachment is levied on the suit flat without prior notice to the applicant and in his absence. These observations are challenged by the petitioner mainly on the ground that a lot of documents were produced on record which clearly show that not only writ of summons was duly served on the respondent-burrowers but he had sufficient knowledge of the recovery certificate and attachment also and that he was negotiating for settlement with the bank. My attention was invited to all such documents produced on record. After having heard the learned counsel for the petitioner-bank so also learned counsel for the respondent-burrower and after having perused the documents I am satisfied that the impugned order is passed without making reference to the relevant documents on record. Learned counsel appearing for the parties fairly stated that I need not record reasons for setting aside the impugned order and they have agreed for following order:

(i) The impugned order dated 11.6.2007 passed by the Divisional Joint Registrar, Co-op. Societies, Mumbai Division, Mumbai is quashed and set aside. Revision application No.530 of 2006 stands restored to file.

(ii) Mr.Saudagar, learned counsel for

respondent-burrower submits that without prejudice to the rights and contentions the respondent-burrower is prepared to deposit another Rs.4 Lacs with the petitioner-bank within a period of 12 weeks from today and he has no objection for Divisional Joint Registrar to hear revision on merits in accordance with law. His statement is accepted.

(iii) The Divisional Joint Registrar shall decide revision application afresh and dispose of the same on merits in accordance with law as expeditiously as possible and preferrably within eight months from the date of receipt of this order.

(iv) All contentions are kept open to agitate before the Revisional Authority. It is open for the parties to produce additional documents, if any, in support of their contentions. The Divisional Joint Registrar shall decide the revision application without being influenced by this order or the statement of the learned counsel regarding deposit of additional amount of Rs.4 Lacs as aforementioned. The Divisional Joint Registrar shall hear the revision after respondent-burrower deposits Rs.4 Lacs as aforestated.

. The writ petition is disposed of.

(D.B.BHOSALE, J.)